

DOCKET NO.: MBI-1064

LITIGATED REISSUE

2. The Protest and Applicant's Response

Applicant has reviewed the Protest that has been submitted under Rule 291(a) in this application. Essentially, the Protest relies upon the same Prior Art that was previously submitted to the Examiner in this Application on Applicant's form PTO-1449 in the Information Disclosure Statement. These references were briefly discussed by the undersigned and Examiner Wilson in the personal interview that was held on June 19, 2002 and were made of record and considered by Examiner Wilson prior to her indication that the claims were drawn to allowable subject matter. Accordingly, Applicant continues to believe that the claims that are pending in this Application patentably define over the Prior Art that is presented in the Protest.

The British '098 reference was relied upon in the first Office Action to reject original claims 1, 3 and 8. Applicant has canceled those claims. Claims 2, 4-7, 9-21, 33-34, 36 and 39-46 were indicated in the same Office Action as being allowable if the §112 problem was addressed and the claims were rewritten in independent form. Applicant has done this. Claims 19, 32, 35 and 46 were indicated as being allowable in the First Office Action if the §112 rejections were addressed. Applicant has done this as well.

Applicant agrees with the allowance of claim 2 and disagrees with the comments in the Protest because the Prior Art, including the British '098 reference and US Patent 2,472,028 to Son ("Son") fails to disclose or suggest an apparatus for storing an article including a tray having a bottom face that is adapted to be supported by an underlying surface such as a counter-top, and an upper face; and a plurality of pegs extending outwardly from said upper face. In the British '098 reference and Son, the "pegs" do not extend outwardly from the upper face of the article. Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. The references also fail to disclose such pegs being mounted to said tray in such a manner that no standing water may collect at a point where a peg is mounted, thereby minimizing potential for mold and bacterial growth. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

DOCKET NO.: MBI-1064

LITIGATED REISSUE

Applicant agrees with the allowance of claim 4, because there is no disclosure or suggestion of an apparatus for storing an article, including a tray having a bottom face that is adapted to be supported by an underlying surface such as a counter-top, and an upper face; and a plurality of pegs extending outwardly from said upper face, each of said pegs being sized and arranged so as to be able to support an article, as well as means for imparting lateral stability to said pegs, further deterring any motion other than about said single axis of rotation. In the British '098 reference and Son, the "pegs" do not extend outwardly from the upper face of the article. Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

Claim 9 was correctly indicated as being allowable as well. This claim recites an apparatus for storing an article, including, *inter alia*, a tray having a bottom face that is adapted to be supported by an underlying surface such as a counter-top, and an upper face; and a plurality of pegs extending outwardly from said upper face, each of said pegs being sized and arranged so as to be able to support an article, and wherein each of said pegs are permanently mounted to said tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage and packaging of said apparatus, and a second, operative position, wherein said peg is positioned so as to extend outwardly from said upper surface, so as to enable said peg to support an article, wherein said apparatus can conveniently be folded for packaging and storage purposes, as well as disk holding means, connected to said upper face of said tray, for holding baby bottle disks in a location that is isolated from areas of said tray in which liquid may collect. In the British '098 reference and Son, the "pegs" do not extend outwardly from the upper face of the article. Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

DOCKET NO.: MBI-1064

LITIGATED REISSUE

The Protestor acknowledges that neither Son nor the British reference teaches the disk holding means, and relies instead on Kassanchuk or Chang as a proposed modifying reference. However, there is clearly a lack of the requisite suggestion or incentive to base a §103 rejection on this proposed combination. It should be kept in mind that neither the British reference nor Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories.

Claim 11 was correctly indicated as being allowable as well. It discloses a combination of the structure recited in original claim 1 with a plurality of ring support members that are constructed and arranged to support a ring portion of a baby bottle. Again, in the British '098 reference and Son, the "pegs" do not extend outwardly from the upper face of the article. Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face. The Protestor postulates an obviousness rejection based on a combination of the British reference or Son with a number of secondary references. The postulated rejection would be inappropriate, however, because there is no suggestion or incentive that would have led a person having ordinary skill in this area of technology to contemplate such a combination. It should again be kept in mind that neither the British reference nor Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories.

Independent claim 18 was also correctly indicated as being allowable over the Prior Art of record. Claim 18, in addition to the substantial structure recited in original claim 1 provides for a cutout area on a side of said apparatus for facilitating lifting of said apparatus by a user. None the primary references disclose or suggest such a feature, and there is no suggestion or incentive for modifying the references to provide such a feature. Again, in the British '098 reference and Son, the "pegs" do not extend outwardly from the upper face of the article. Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein

DOCKET NO.: MBI-1064

LITIGATED REISSUE

said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

Claim 19 was correctly indicated as being allowable over the Prior Art of record as well. It recites an apparatus for drying and storing an article that includes a tray having a bottom face that is adapted to be supported by an underlying surface such as a counter-top, and an upper face; bottle support means for supporting a baby bottle; and disk holding means, connected to said upper face of said tray, for holding baby bottle disks in a location that is isolated from areas of said tray in which liquid may collect, whereby baby bottle disks are and stored in a safe manner at a location that is convenient to a location at which baby bottles are being dried. For the reasons discussed above, there is clearly a lack of the requisite suggestion or incentive to base a §103 rejection on the proposed combination of references advanced by the Protester. It should be kept in mind that neither the British reference or Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories.

Independent claim 22 was also correctly allowed in the office action. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a counter-top, and an upper portion; a plurality of pegs extending outwardly from said upper portion, each of said pegs being sized and arranged so as to be able to support a baby bottle; mounting means for mounting said pegs to said tray so that said pegs are movable while mounted to said tray between a first storage position, wherein said entire peg is positioned substantially adjacent to said upper portion for storage and packaging of said apparatus, and a second, operative position, wherein said peg is positioned so as to extend outwardly from said upper portion, so as to enable said peg to support an article, wherein said apparatus can conveniently be folded for packaging and storage purposes; and frictional means connected to said pegs for frictionally engaging said upper portion of said tray when said pegs are moved between said first storage position and said second operative position. None of the references discloses or suggests such an apparatus, and there is no suggestion or incentive to modify the references of record in order to achieve what is set forth in claim 22. Neither the British reference nor Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories. Again, in the British '098 reference and Son, the "pegs" do not extend outwardly from the upper portion of the article.

DOCKET NO.: MBI-1064

LITIGATED REISSUE

Instead, the pegs in each reference are mounted above the sidewalls of the article, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

Independent claim 32 was also correctly allowed in the office action. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom that is adapted to be supported by an underlying surface such as a countertop and an upper face, with the upper face being oriented with respect to the bottom so that one end of the upper face is lower than an opposite end so that water will run toward the one end during use, and a plurality of pegs extending outwardly from the upper face, each of the pegs being sized and arranged so as to be able to support an article, the pegs being positioned away from the edges of the upper face so that any water falling off an article that is supported by any of the pegs will fall within the tray and further wherein each of the pegs is permanently mounted to the tray in such a manner as to be movable between a first storage position, where the entire peg is positioned adjacent to the upper face for storage and packaging of the apparatus, and a second, operative position, wherein the peg is positioned so as to extend outwardly from the upper surface, so as to enable the peg to support an article, so that the apparatus can conveniently be folded for packaging and storing purposes. None of the references discloses or suggests such an apparatus, and there is no suggestion or incentive to modify the references of record in order to achieve what is set forth in claim 32. It should be kept in mind that neither the British reference or Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories. Again, in the British '098 reference and Son, the "pegs" do not extend outwardly from the upper portion of the article. They are not positioned away from the edges of the upper face, as required by claim 32. Instead, the pegs in each reference are mounted above the sidewalls of the article, immediately above the edges, to one side or another of the upper face. Also, the pegs in the British '098 reference are not permanently mounted to the tray in such a manner as to be movable between a first storage position, wherein said entire peg is positioned adjacent to said upper face for storage. The end of the pegs in the British '098 reference are well above the outer sidewalls of the article, away from the upper face.

DOCKET NO.: MBI-1064

LITIGATED REISSUE

Independent claim 35 was also correctly allowed in the office action. It recites a method of drying a baby bottle ring including steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of ring support members that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle ring on to one of the ring support members for drying, wherein the step of placing the baby bottle ring is performed so that the baby bottle ring is positioned above an upper surface of the bottle rack, whereby the baby bottle ring will not be exposed to any water that may have collected on the upper surface. None of the references discloses or suggests such an apparatus, and there is no suggestion or incentive to modify the references of record in order to achieve what is set forth in claim 35. It should be kept in mind that neither the British reference or Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories.

Independent claim 46 was also correctly allowed in the office action. It recites a method of drying a baby bottle including steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of pegs that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle on to one of the pegs for drying, this step being performed so that the baby bottle is positioned above an upper surface of the bottle rack, so that the baby bottle will not be exposed to any water that may have collected on the upper surface. None of the references discloses or suggests such an apparatus, and there is no suggestion or incentive to modify the references of record in order to achieve what is set forth in claim 46. It should be kept in mind that neither the British reference or Son discloses use of the structure disclosed therein for drying baby bottles or baby bottle accessories.

DOCKET NO.: MBI-1064

LITIGATED REISSUE

3. Conclusion

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, she is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,

John D Knoble
Registration No. 32,387

Date: 2/6/03

KNOBLE & YOSHIDA, LLC
Eight Penn Center- Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
(215) 599-0600